



राजपत्र, हिमाचल प्रदेश

(अज्ञातवारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शनिवार, १२ नवम्बर, १९९४/२१ भाद्रपद, १९१६

हिमाचल प्रदेश सरकार

हिमाचल प्रदेश विधान सभा उच्चानय

प्रतिपक्षना

शिमला-४, १२ नवम्बर, १९९४

संख्या १-५०/९४-वि०५०.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, १९७३ के नियम १३५ के अन्तर्गत "हिमाचल प्रदेश विधान सभाओं पर कानून (होस्टिंग) और नियमना

गृहों में) संशोधन विधेयक, 1994 (1994 का विधेयक संख्यांक 13) जो दिनांक 12 सितम्बर, 1994 को हिमाचल प्रदेश विधान सभा में पुरा स्थापित हो गया है, अर्द्धसाधारण की सूचनाएं राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है ।

लक्ष्मण सिंह,
सचिव ।

1994 का विधेयक संख्यांक 13

हिमाचल प्रदेश विकास वस्तुओं पर कर (होटलों और बिग्या गृहों में) संशोधन विधेयक, 1994

(विधान सभा में यथा पुरस्कापित रूप में)

हिमाचल प्रदेश टेक्स आन लवणरीज (इन होटल गेण्ड लीजिंग हाऊसिंग)
एक्ट, 1979 (1979 का 15) का और संशोधन करने के लिए विधेयक।

भारत गणराज्य के पैतालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्न-
लिखित रूप में यह अधिनियमिन हो :—

1. (1) इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश विकास वस्तुओं पर
कर (होटलों और बिग्या गृहों में) संशोधन अधिनियम, 1994 है।

संक्षिप्त
नाम और
प्रारम्भ।

(2) इस अधिनियम की धारा 4, 5 और 6 तुरन्त प्रवृत्त होती और जेप उपबन्ध
प्रथम अगस्त, 1993 में प्रवृत्त हुए समझें।

2. हिमाचल प्रदेश टेक्स आन लवणरीज (इन होटल गेण्ड लीजिंग हाऊसिंग)
एक्ट, 1979 (जिसे इसमें इसके पश्चात् नून अधिनियम कहा गया है) की धारा 2
में, खण्ड (e) के पश्चात् निम्नलिखित खण्ड (ee) जोड़ा जाएगा, अर्थात् :—

धारा 2 का
संशोधन।

“(ee) “new hotel” means a hotel, located within the State of Himachal
Pradesh, which commences operation on or after 1st day of
August, 1993, and shall also include an existing hotel, the proprie-
tor of which after the 1st day of August, 1993—

- (i) expands, alongwith facilities and services already being provided therein, its existing accommodation by atleast twenty-five per cent with an additional capital investment of not less than twenty-five per cent of the existing capital investment but without change in the nature of the facilities and services, Or
- (ii) diversifies it by providing new facilities and services with an additional capital investment of not less than twenty-five per cent of the existing capital investment.

but does not include any hotel which is formed as a result of re-establishment, mere change of ownership, change in the constitution, re-construction or revival of an existing hotel.

Explanation.—For the purposes of this clause “capital investment” means investment made on land, building, machinery and plant by the proprietor of the hotel.”

3. नून अधिनियम की धारा 6 के पश्चात् निम्नलिखित धारा 6-A और 6-B
अंतःस्थापित की जाएंगी, अर्थात् :—

धारा 6-A
और धारा
6-B का
अंतःस्था-
पन।

“6-A. Special provisions relating to deferred payment of luxury tax by
proprietors of new hotels.—(1) Notwithstanding anything contained in any

other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, it is necessary or expedient in the public interest so to do, it may, under a scheme notified in this behalf under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of luxury tax payable under section 4 by such proprietor who is registered under this Act :

Provided that the State Government may, for the purposes of this sub-section, make a scheme retrospectively with effect from the 1st day of August, 1993.

(2) Subject to the provisions of sub-section (1), the proprietor referred to therein, if eligible for grant of facility of making deferred payment of luxury tax under the scheme notified under sub-section (1), may make deferred payment of luxury tax payable by him.

6-B. Power to exempt the proprietors of new hotels from payment of luxury tax.—(1) Notwithstanding anything contained in any other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, for providing luxury therein, it is necessary or expedient in the public interest so to do, it may, by notification, exempt the proprietor of a new hotel from the payment of luxury tax, for such period, not exceeding five years, as may be specified in the said notification, subject to the condition that—

- (i) such new hotel comes into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998, and
- (ii) the rates of charges for the luxury provided in such new hotel do not exceed one hundred rupees per person per day.

(2) The Government may, for the purposes of sub-section (1), issue notification retrospectively with effect from the 1st day of August, 1993 in respect of the new hotels coming into operation between the 1st day of August, 1993 and the commencement of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

(3) Notwithstanding anything contained in sub-section (6) of section 4, no proprietor of a new hotel, in respect of which a notification under sub-section (1) has been issued, shall, during the period when such exemption remains in force, collect any sum by way of luxury tax to the extent of exemption provided in the notification.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.”.

धारा 8
का संशोधन

4. मूल अधिनियम की धारा 8 में,—

- (i) शब्द और चिन्ह “8.” के पश्चात् और शब्द “Any” से पूर्व कोष्ठक और शब्द “(1)” शब्द स्वर्णित किए जाएंगे ;

(i) उप-धारा (1) में—

(क) प्रथम परन्तु में शब्द "tax assessed" के पश्चात् परन्तु शब्दों "and the penalty" न पड़े, कोष्ठों और शब्द "(including interest payable)" अतिरिक्तित्व दिए जाएंगे ; और

(ख) द्वितीय परन्तु में शब्दों "without the tax" के पश्चात् परन्तु शब्द "or penalty" न पड़े, कोष्ठों और शब्द "(including interest payable)" अतिरिक्तित्व दिए जाएंगे ।

5. मूल अधिनियम की धारा 10 में "or an application for revision made under section 9" शब्दों और शब्दों को हटा दिया जाएगा ।

धारा 10
का संशो-
धन ।

6. इसके माध्यम से मूल अधिनियम की धारा 11 के स्थान पर निम्नलिखित धारा प्रतिस्थापित की जाएगी, शब्दों :—

धारा 11
का प्रति-
स्थापन ।

"11. Tax, penalty and interest recoverable as arrears of land revenue.—The amount of luxury tax and penalty imposed or interest payable under this Act, which remains unpaid after the due date shall be recoverable as arrears of land revenue."

उद्देश्यों और कारणों का कथन

हिमाचल प्रदेश विनाश वस्तुओं पर कर (होटलों और विनाश गृहों में) अधिनियम, 1979 (1979 का 15), होटल और विनाश गृह के प्रवेश पर करप्राप्ति से होटल और विनाश गृह में विनाश वस्तु की व्यवस्था करने का वास्तविक विनाश कर संवेदन करने की प्रतीक्षा करता है। हिमाचल प्रदेश एक पर्यटन राज्य है। राज्य में पर्यटन को प्रोत्साहित करने और होटल उद्योग को अभिवृद्धि करने के उद्देश्य से प्रथम अगस्त, 1993 को या इसके पश्चात् संघनित नए होटलों के स्वत्वधारियों द्वारा संवेद की जाने वाली विलास वस्तु कर की रशि के संवेद को बारह वर्षों तक आस्थगित करने की स्कीम का उपबन्ध करने का विनिश्चय लिया गया है और अधिसूचना द्वारा "नए होटलों" को उन स्वत्वधारियों को विनाश वस्तु पर के संवेद से 5 वर्ष के लिए छूट देने का विनिश्चय भी लिया है। जिनके होटल प्रथम अगस्त, 1993 से प्रारम्भ होने वाली और 31 जुलाई, 1998 को समाप्त होने वाली अवधि के बीच संघनित हों और जो प्रति व्यक्ति प्रतिदिन एक से अधिक के अतिरिक्त दरों और प्रभारों पर विलास वस्तु की व्यवस्था करते हों।

2. इन प्रयोजनों के लिए पद "नए होटल" को परिभाषित करना आवश्यक है। नूतन विलास वस्तु कर के संवेद को बारह वर्षों तक आस्थगित करने और नए होटलों के स्वत्वधारियों को पांच वर्ष के लिए छूट देने के प्रोत्साहनों को क्रमशः विलास वस्तु कर के आस्थगित संवेद की स्कीम और अधिसूचना द्वारा विलास वस्तु पर के संवेद से छूट द्वारा विनिश्चित किया जाना सामान्य है। इसलिए मूल अधिनियम में इन वास्तविक उद्देश्य करना अनिवार्य है ताकि राज्य सरकार स्कीम को बना कर अधिसूचित कर सके और छूट की वास्तविक अधिसूचना जारी कर सके।

3. वर्तमान प्रोत्साहनों को प्रथम अगस्त, 1993 से दिया जाने का विनिश्चय लिया गया है इसलिए मूल अधिनियम में राज्य सरकार की विनाश वस्तु कर के आस्थगित संवेद के लिए स्कीम को बनाकर अधिसूचित करने और विनाश वस्तु पर के भूतकाली प्रत्यक्ष से छूट को अधिसूचित करने हेतु पर्याप्त प्रयत्न के लिए उपयुक्त उपबन्ध करना आवश्यक है। पर के विनिश्चित संवेद पर वशज के उद्ग्रहण के उपबंधों के पुरा स्थापन और संवेदन पर पुनरीक्षण के लोभ के परिणामस्वरूप अपेक्षा, पुनरीक्षण और भू-राजस्व की वशज के रूप में वशज को वसूली की वास्तविक उपबंधों में सुधार करना आवश्यक है।

4. यह विधेयक उपर्युक्त उद्देश्यों की पूर्ति के लिए है।

सत्य राम

प्रभारी मन्त्री।

जितना:

12 नितम्बर, 1994.

द्वितीय ज्ञापन

इस विधेयक का खण्ड-3 नए होटलों के स्वत्वधारियों द्वारा विलास कर के लिए आम्दानीसंदेय का उप-बन्ध करता है। यद्यपि कर के आम्दानीसंदेय द्वारा सिर्फ विलम्बित संदेय होगा, परन्तु विलास कर की अन्ततः कोई हानि नहीं होगी, तथापि इन संदेयों पर व्याज के कारण कुछ हानि उभरने होगी, जिसका सही रूप से अनुमान नहीं लगाया जा सकता।

विधेयक का खण्ड 3 भी विनास कर से, नए होटलों में प्रति व्यक्ति प्रति दिन 100/- रुपए की विनास व्यवस्था के लिए छूट प्रदान करता है। इस छूट के परिणामस्वरूप, राज्य के राजकोष को लगभग एक करोड़ पचचाम लाख रुपए का वापिस घाटा होगा।

प्रत्यायोजित विधान सम्बन्धी ज्ञापन

विधेयक का खण्ड 3 राज्य सरकार को विलास कर के आम्दानीसंदेय के लिए स्कीम बनाने और भूत-लक्षी प्रभाव से प्रथम अगस्त, 1993 से विनास वस्तुओं पर छूट देने की अधिनियम जारी बनने के लिए सज्जक करता है। क्योंकि मूल अधिनियम के उपबन्ध नए होटलों के बारे में प्रथम अगस्त, 1993 से लागू किये जा रहे हैं, इसलिए राज्य सरकार को विधेयक के खण्ड 3 के अधीन भूतलक्षी प्रभाव से स्कीम बनाने के लिए शक्तियों का प्रत्यायोजन आवश्यक है। इन विधान शक्तियों का प्रत्यायोजन आवश्यक और सामान्य प्रकृति का है।

संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिश

[नस्ति संख्या ई0 एकस0 एन0 एक0 (21) 4/87-(लूज)-मावकारी एवं पराधान विभाग]

हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश विनास वस्तुओं पर कर (होटलों और किराया गृहों में) संशोधन विधेयक, 1994 की विषय वस्तु के बारे में सूचित किए जाने के पश्चात् भारत के संविधान के अनुच्छेद 207 के अधीन उक्त विधेयक को विधान सभा में पुरस्तापित करने और उस पर विचार करने की सिफारिश करत है।

Bill No 13 of 1994.

THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) AMENDMENT BILL, 1994

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

Short title and commencement.

(2) Sections 4, 5 and 6 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of August, 1993.

2. In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (hereinafter referred to as the principal Act), after clause (e), the following clause (ee) shall be added, namely:—

Amendment of section 2

“(ee) “new hotel” means a hotel located within the State of Himachal Pradesh, which commences operation on or after 1st day of August, 1993, and shall also include an existing hotel, the proprietor of which after the 1st day of August, 1993—

(i) expands, alongwith facilities and services already being provided therein, its existing accommodation by atleast twenty-five per cent with an additional capital investment of not less than twenty-five per cent of the existing capital investment but without change in the nature of the facilities and services, or

(ii) diversifies it by providing new facilities and services with an additional capital investment of not less than twenty-five per cent of the existing capital investment.

but does not include any hotel which is formed as a result of re-establishment, mere change of ownership, change in the constitution, reconstruction or revival of an existing hotel.

Explanation.—For the purposes of this clause “capital investment” means investment made on land, building, machinery and plant by the proprietor of the hotel;”.

3. After section 6 of the principal Act, the following sections 6-A and 6-B shall be inserted, namely:—

Insertion of sections 6-A and 6-B.

“6-A. *Special provisions relating to deferred payment of luxury tax by proprietors of new hotels.*—(1) Notwithstanding anything contained in any

other provision of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, it is necessary or expedient in the public interest so to do, it may, under a scheme notified in this behalf under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of luxury tax payable under section 4 by such proprietor who is registered under this Act:

Provided that the State Government may, for the purposes of this sub-section, make a scheme retrospectively with effect from the 1st day of August, 1993.

(2) Subject to the provisions of sub-section (1), the proprietor referred to therein, if eligible for grant of facility of making deferred payment of luxury tax under the scheme notified under sub-section (1), may make deferred payment of luxury tax payable by him.

6-B. Power to exempt the proprietors of new hotels from payment of luxury tax.—(1) Notwithstanding anything contained in any other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, for providing luxury therein, it is necessary or expedient in the public interest so to do, it may, by notification, exempt the proprietor of a new hotel from the payment of luxury tax, for such period, not exceeding five years, as may be specified in the said notification, subject to the condition that—

- (i) such new hotel comes into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998, and
- (ii) the rates of charges for the luxury provided in such new hotel do not exceed one hundred rupees per person per day.

(2) The Government may, for the purposes of sub-section (1), issue notification retrospectively with effect from the 1st day of August, 1993 in respect of the new hotels coming into operation between the 1st day of August, 1993 and the commencement of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

(3) Notwithstanding anything contained in sub-section (6) of section 4, no proprietor of a new hotel, in respect of which a notification under sub-section (1) has been issued, shall, during the period when such exemption remains in force, collect any sum by way of luxury tax to the extent of exemption provided in the notification.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.”

Amendment of section 8.

4. In section 8 of the principal Act,—

- (i) after the figure and sign “8.” and before the word “Any”, the brackets and figure “(1)”, shall be inserted ;
- (ii) in sub-section (1)—
 - (a) in the first proviso after the words “tax assessed” but before the words “and the penalty”, the brackets and words

"(including interest payable)", shall be inserted; and

(b) in the second proviso, after the words "without the tax" but before the words "or penalty", the brackets and words "(including interest payable)" shall be inserted.

5. In section 10 of the principal Act, the words and figure "or an application for revision made under section 9" shall be omitted.

Amendment of section 10.

6. For section 11 of the principal Act, along with its heading, the following shall be substituted, namely: -

Substitution of section 11.

"11. *Tax, penalty and interest recoverable as arrears of land revenue.*—
The amount of luxury tax and penalty imposed or interest payable under this Act, which remains unpaid after the due date shall be recoverable as arrears of land revenue."

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979) requires every proprietor of a hotel or a lodging house to pay luxury tax in respect of the 'luxury provided in his hotel or lodging house'. The Himachal Pradesh is a tourism State. With the objective of encouraging tourism and also promoting hotel-industry in the State, it has been decided to provide for a scheme of deferred payment, upto twelve years, of the amount of luxury tax payable by the proprietors of 'new hotels' coming into operation on or after the 1st day of August, 1993, and it has also been decided to exempt, by notification, for five years those proprietors of 'new hotels' from the payment of luxury tax whose hotels come into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998 and who provide luxury at the rates and the charges not exceeding rupees one hundred per person per day.

2. For these purposes, it is essential to define the expression 'new hotel'. As the incentives of deferred payment of luxury-tax upto 12 years and exemption for five years to the proprietors of new hotels are intended to be implemented respectively by means of a scheme of deferred payment of luxury tax and notification exempting payment of luxury tax, it is also imperative to make adequate provisions in this regard, in the principal Act, to enable the State Government to make and notify the scheme and also to issue exemption notification.

3. Since it has been decided to make available these incentives with effect from the 1st day of August, 1993, it is also essential to make suitable provision in the principal Act, empowering the State Government to make and notify the scheme of deferred payment of luxury tax and to notify the exemption of luxury tax retrospectively with effect from the 1st day of August, 1993, itself. Further, as a consequence of introduction of provisions of levy of interest on belated payment of tax and omission of revision on application, it is also essential to improve the provisions relating to appeal, revision and recovery of interest as arrears of land revenue.

4. The Bill seeks to achieve the aforesaid objectives.

SANT RAM,
Minister-in-charge.

SHIMLA :
The 12th September, 1994.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for deferred payment of luxury tax by proprietors of new hotels. Although by deferred payment of the tax there will be only delayed payment but no ultimate loss of luxury tax, yet on such payments there will occur some loss on account of interest the amount whereof cannot be exactly quantified.

Clause 3 of the Bill also seeks to exempt the luxury provided in a new hotel upto one-hundred rupees per person per day from luxury-tax. As a result of this exemption, there will occur annual loss of rupees one crore fifty lakhs approximately to the State exchequer.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the State Government to make the Scheme for deferred payment of luxury tax and to issue notification exempting luxury tax retrospectively with effect from the 1st day of August, 1993. Since the provisions of the principal Act in regard to the new hotels are being amended with effect from the 1st day of August, 1993, it is necessary to delegate the powers to the State Government to make the Scheme retrospectively under clause 3 of the Bill. These delegations of legislative powers are essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[File No. EXN-F (21)-4/87 Excise and Taxation Department]

The Governor of Himachal Pradesh, after having been informed of the subject matter of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Bill, 1994, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.